

EXHIBIT B

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HARRIET BELL,
Individually and on
behalf of all similarly
situated persons,

Plaintiff,

vs.
CIVIL ACTION NO.
1:06-CV-1993-CC

CALLAWAY PARTNERS, LLC,
and HURON CONSULTING
GROUP, INC.

Defendants.)

C. Todd Van Dyke, Esq.
L. Dale Owens, Esq.
JACKSON LEWIS LLP
1155 Peachtree Street, N.E.
Suite 1000
Atlanta, Georgia 30309
Tel (404) 525-8200
Fax (404) 525-1173

Plaintiffs have conceded that they satisfy the “duties” test for determining if an employee is exempt.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

HARVEY HELL, individually,
and on behalf of all similarly situated
persons,

vs.
Plaintiff,) CIVIL ACTION NO.
vs.) 1:06-CV-1993-CC

CALLAWAY PARTNERS, LLC,) JURY TRIAL DEMANDED
Defendant.)

“It is hereby stipulated and agreed that Plaintiff, current opt-in plaintiffs and future opt-in plaintiffs will not contend, claim or argue in this case that they were non-exempt employees during their employment with Defendant based on the job duties they performed. This stipulation does not preclude any such individuals from contending in any other case that they were non-exempt employees during

JOINT STIPULATION

It is hereby stipulated and agreed that Plaintiff, current opt-in plaintiffs and future opt-in plaintiffs will not contend, claim or argue in this case that they were non-exempt employees during their employment with Defendant based on the job duties they performed. This stipulation does not preclude any such individuals from contending in any other case that they were non-exempt employees during

[Doc. No. 115]

“Because the salary-basis test is a creature of the Secretary’s own regulations, his interpretation of it is, under our jurisprudence, controlling unless ‘plainly erroneous or inconsistent with the regulation.’”

Auer v. Robbins, 519 U.S. 452, 461 (1997)

"It is the Department's long standing position that where there is an understanding that the normal workweek consists of five or six workdays, the deduction permissible for a day of absence under section 541.118 [now 541.602(b)] must be calculated on the basis of one-fifth of a five-day workweek or one-sixth of a six-day workweek, whatever the case may be."

July 21, 1997, Opinion Letter

"[W]here there is an understanding that the normal workweek consists of five days, the deductions permissible under 541.118 [now 541.602(b)] must be calculated on the basis of one-fifth of a five-day workweek. The daily amount thus computed is applicable regardless of the number of hours the employee is scheduled to work."

January 17, 1986, Opinion Letter

29 C.F.R. 541.603(e)

This Section shall not be construed in an unduly technical manner so as to defeat the exemption.

Engagement Letter

Callaway Partners

Ms. Jeanne E. Banks
4959 Oaklawn Rd.
Smyrna, GA 30080

Dear Jeanne:

Congratulations on your project associate assignment at HealthSouth, referred to hereafter in this letter as the "Client" and welcome to Callaway Partners. We trust your experiences will be rewarding and we look forward to a successful relationship over and throughout your professional career.

Callaway Partners has been engaged by our Client to perform financial accounting services related to prior year financial statements. Our areas of focus include Accounts Payable, Payroll, Payroll, Cash, Accrued Expenses, Prepaid Assets, M&S, A/R, and Disbursed Functions. Our activities will include going back to our fiscal years in preparation of audits by PWC. The work will be performed on-site at the Client's corporate headquarters in Birmingham, Alabama and may extend into other areas as client needs evolve. You have been assigned as Project Associate to complete this project with a title of "Consultant". The Callaway engagement partner for this engagement is Julie Cox. All costs associated with this project will be directed by Mike Diaz, Callaway Partners project lead. Your involvement with this project will commence on Wednesday, August 25, 2004 with a Target Completion Date of December 31, 2004 (subject to extension). Your weekly salary will be \$1600 per week, with hours worked in excess of forty for a given week paid at \$40/hour.

To outline Callaway Partners' policies, programs and benefits, we have enclosed the "Employee Handbook for Professional Project Employees". Please keep this Handbook as a ready reference throughout your assignment with Callaway Partners. We ask you read, agree to, and sign page titled "Acceptance of Employment Handbook" and fax this page to my attention at 770-740-5913 before commencing your project.

Unprecedented commitment to a project because it is connected is critical to client satisfaction, setting of expectations and is demonstrated level of professionalism. It is our desire to avoid your "memorandum" departure from this project until an initial expressed satisfaction to the Client and Callaway Partners. As we discussed, it is your desire to continue this project until the Target Completion Date. We do not recommend this, if executed well, this project will open up new business opportunities for Callaway Partners which in turn will present additional project assignments for our associates. We have all the confidence in you and your abilities to deliver a quality service and project deliverables for HealthSouth. There are a number of people depending on you and your personal and professional commitment to this project and we have selected you for this engagement, above many other potential candidates, because you recognize and have fully acknowledged our commitment to everyone involved. In the event you do need to leave this project prior to completion, which we recognize may happen due to an uncontrollable circumstance, please refer to the "Notice of Termination" section of the "Employee Handbook for Professional Project Employees" for Callaway Partners' official policy.

Your salary will be paid each Friday for a previous week. To facilitate accurate and timely client billings, we will capture you[r] billable time each Monday morning.

PWCC Capital Partners, Suite 1660 Atlanta, Georgia 30338 770-740-5913 www.callawaypartners.com

August 23, 2004

"Your weekly salary will be \$1600 per week, with hours worked in excess of forty for a given week paid at \$40/hour."

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Exhibit A to Erickson's Declaration [Exhibit 1 to Defendants' SUMF Doc. No. 339]

CAL 0015721

Callaway informed Plaintiffs at the beginning of their employment to notify management of any questions or problems they had with any matter:

"If there is anything about your engagement that is bothering you, let's get it out in the open and talk about it. Discuss it frankly with us, and we'll do everything we can to help you 'iron it out.' You can be sure that your complaint will be handled in an open and fair manner. . . .

We are anxious to hear from you on any subject. As a member of our team, we want you to have every opportunity to discuss your problems or ideas freely, and for you to feel that you are being treated fairly. . . .

[Exhibit C to Erickson's Declaration]

Callaway
PARTNERS

(H) **HEALTHSOUTH**[®]
Financial Restatement
and Project Management
Engagement



Project Professional Compensation Overview

- Every employee assigned on the HealthSouth engagement is paid a guaranteed weekly salary.
- As an additional compensation element, Callaway has elected to also pay a weekly bonus to every employee.
- The calculation of this weekly bonus is based on billable hours worked on the Healthsoutn engagement. Employees must be in good standing with the company to receive this bonus.
- Additional benefits are offered such as health insurance, 401k participation, PTO, and others based on guidelines in the handbook.

(H) **HEALTHSOUTH**
Financial Restatement
and Project Management
Engagement



Project Professional Compensation Overview

Salary Guidelines

- For each week you are employed by Callaway, working on HealthSouth engagement, you are entitled to your full weekly salary, subject to a few exceptions, listed below.

- "Days" not worked for personal reasons, unpaid vacation, or illness (can be offset by PTO days earned)
- Unpaid disciplinary suspensions imposed for infractions of workplace conduct rules
- In initial or terminal weeks of employment: Salary may be prorated for time actually worked in the first and last week of employment
- Weeks where the project is shut down completely and no work is performed, salary will not be paid (example may be Christmas week or Thanksgiving week)
- PTO (paid time off) earned can be applied to days not worked but do not effect the weekly bonus calculation



Project Professional Compensation Overview

Bonus Guidelines

- For each week you are employed by Callaway, receiving a weekly salary while working on the HealthSouth engagement, you will earn a bonus for billable hours worked in excess of 40 hours. Employees must be in good standing to receive this bonus. (In certain circumstances, the 40 hours may be reduced/prorated if less than a full week is worked and less than a full week's salary is paid). Amount paid per bonus hour is typically equivalent to salary compensation levels, but this may vary based on performance.
- Any deficit created in a given week (where billable hours are less than 40), will be carried forward and applied against future week's bonus calculation. This calculation has no effect on an employee's guaranteed weekly salary.
- Any deficit existing at the end of employment will be forgiven.

(H) **HEALTHSOUTH**
Financial Restatement
and Project Management
Engagement



Project Professional Compensation Overview

(H) **HEALTHSOUTH**
Financial Restatement
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Engagement

Bonus Example #3

A project professional takes 2 personal days and works 3 days, is paid 3/5 of their weekly salary, and reports 35 billable hours. This project professional's normal weekly salary is \$1,000, \$600 paid for this week after \$400 deduction for 2 full day absences for personal reasons. He/she is in good standing with Callaway. There is no "bonus hour deficit" from the previous week.

Billable Hours → 35

Weekly Billable Hour Bonus Threshold	<u>(24)</u>	Prorated (3/5 x 40 = 24)
Bonus Hours Earned	<u>11</u>	
Deficit from previous week	<u>(0)</u>	
Weekly Bonus Hours	<u>11</u>	
X effective hourly rate	<u>\$25.00</u>	
Weekly Bonus Amount	<u>\$275.00</u>	

Weeks Where Plaintiffs Received Full Pro-Rata Salary Despite Partial Weekdays

#	Name	Salary Rate	Workweek	Days M-F	Hrs Reported For Billing	Regular Pay Received
1	Angela Beavers	\$1,600/wk	4/1/05	5	35.5	\$1,600 (5/5 of regular salary)
2	Tim Hord	\$1,600/wk	12/23/05	5	37.25	\$1,600 (5/5 of regular salary)
3	Tim Hord	\$1,600/wk	3/10/06	5	32.75	\$1,600 (5/5 of regular salary)
4	Julie McMillan	\$1,600/wk	4/7/06	5	34.75	\$1,600 (5/5 of regular salary)
5	Peter Montgomery	\$1,600/wk	3/10/06	5	37	\$1,600 (5/5 of regular salary)
6	Sandra Morman	\$1,800/wk	3/10/06	5	35	\$1,800 (5/5 of regular salary)
7	Michael Moss	\$1,600/wk	10/13/06	5	38.5	\$1,600 (5/5 of regular salary)
8	Michael Moss	\$1,600/wk	10/6/06	5	37.5	\$1,600 (5/5 of regular salary)
9	Michael Moss	\$1,600/wk	4/28/06	5	35	\$1,600 (5/5 of regular salary)
10	Pamela O. Nunez	\$1,600/wk	12/16/05	5	34	\$1,600 (5/5 of regular salary)
11	Pamela O. Nunez	\$1,600/wk	11/4/05	5	29.5	\$1,600 (5/5 of regular salary)
12	Louis Smeraglia	\$1,600/wk	4/29/05	5	37	\$1,600 (5/5 of regular salary)
13	Toni S. Mosely	\$1,800/wk	11/19/04	5	38	\$1,800 (5/5 of regular salary)
14	Cherri Walker	\$1,600/wk	12/29/06	5	35	\$1,600 (5/5 of regular salary)
15	Lillian O. Yeager	\$1,600/wk	4/8/05	5	38.5	\$1,600 (5/5 of regular salary)
16	Lillian O. Yeager	\$1,600/wk	3/4/05	5	37	\$1,600 (5/5 of regular salary)
17	Lillian O. Yeager	\$1,600/wk	10/22/05	5	36	\$1,600 (5/5 of regular salary)

[Exhibit D to Erickson Declaration]